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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,266	10/13/2005	Samuel I Stupp	NANO 107 US2 (NU 22092)	1005
62249	7590	08/11/2008	EXAMINER	
BENET GROUP LLC C/O INTELLEVATE P.O. BOX 52050 MINNEAPOLIS, MN 55402			LUKTON, DAVID	
			ART UNIT	PAPER NUMBER
			1654	
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			08/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/534,266	Applicant(s) STUPP ET AL.	
	Examiner DAVID LUKTON	Art Unit 1654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 13-20, 22-25 and 29-36 is/are pending in the application.
- 4a) Of the above claim(s) 2-4, 18-20 and 30-32 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 5-9, 16, 17, 22-25 and 33-36 is/are allowed.
- 6) ☒ Claim(s) 13-15 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/7/08 has been entered.

Pursuant to the response filed 3/7/08, several claims have been amended. Claims 1-9, 13-20, 22-25, 29-36 are now pending. Claims 5, 13-16, 29, 33-36 are now rejoined with the elected group. Claims 1, 5-9, 13-17, 22-25, 29, 33-36 are examined in this Office action; claims 2-4, 18-20, 30-32 remain withdrawn.

Applicants' arguments filed 3/7/08 have been considered and found persuasive. Claims 13-15 and 29 are now rejected under §112-2nd paragraph. Claims 1, 5-9, 16, 17, 22-25, 33-36 are characterized as allowable at the present time.



Claim 15 is objected to because of a minor typographical error. In the second-to-last line, the following is recited: "administering **and** effective amount".

Here, "and" should be - - **an** - - .

There is another matter regarding claim 15. In the last line of the claim, it is implied that "sites" of patients have needs. The examiner, however, would disagree. Patients can certainly have needs, but sites do not.



Claims 13-15, 29 are rejected under 35 U.S.C. §112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 13 is drawn to a method of making a micelle from a triblock bola amphiphile, wherein the structure of the bola amphiphile is confined to certain structural parameters. However, the method calls for “making a ... solution of a **suitable** bola amphiphile”. Thus, claim 13 encompasses the possibility of taking a bola amphiphile of any size, shape or description, and merely by combining it with a pH-altering solution, that bola amphiphile becomes converted to the triblock bola amphiphile with the confined structural parameters. However, the claim does not make clear how this transformation might be effected. The same issue applies in the case of claim 29.
- Claim 14 is drawn to a method of encapsulating a therapeutic “treatment”. While one can encapsulate a therapeutic agent, or a composition that contains a therapeutic agent, it is not evident how one can encapsulate the act of treating a patient.
- Claim 15 recites (second-to-last line), “administering [an] effective amount of the ... agent”. However, the claim is indefinite as to the objective of the “effective amount”.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lukton whose telephone number is 571-272-0952. The examiner can normally be reached Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang, can be reached at (571)272-0562. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

/David Lukton/

Primary Examiner, Art Unit 1654